

# Senate Study Bill 3075

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL  
BRANCH BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the judicial branch including judicial review  
2 of state agency decisions, contested and uncontested parking  
3 violations, filing civil citations of municipal infractions  
4 with the clerk, appointments to the clerk of the district  
5 court, records kept by the clerk, and service of original  
6 notice in a small claims action.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
8 TLSB 5449DP 82  
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1 1 Section 1. Section 17A.19, subsection 7, Code 2007, is  
1 2 amended to read as follows:  
1 3 7. In proceedings for judicial review of agency action a  
1 4 court may hear and consider ~~such~~ evidence as it deems  
1 5 appropriate. The evidence shall be made part of the district  
1 6 court record.

1 7 a. In proceedings for judicial review of agency action not  
1 8 involving a contested case, the evidence shall include a  
1 9 certified copy of the decision of the agency, a transcript of  
1 10 any reported agency hearing that is relevant to the agency  
1 11 action, and relevant documents or evidence considered by the  
1 12 agency in taking the action under review or any other relevant  
1 13 documents submitted by a party for consideration by the court.

1 14 b. In proceedings for judicial review of agency action in  
1 15 a contested case, however, a court shall not itself hear any  
1 16 further evidence with respect to those issues of fact whose  
1 17 determination was entrusted by Constitution or statute to the  
1 18 agency in that contested case proceeding. Before the date set  
1 19 for hearing a petition for judicial review of agency action in  
1 20 a contested case, application may be made to the court for  
1 21 leave to present evidence in addition to that found in the  
1 22 record of the case. If it is shown to the satisfaction of the  
1 23 court that the additional evidence is material and that there  
1 24 were good reasons for failure to present it in the contested  
1 25 case proceeding before the agency, the court may order that  
1 26 the additional evidence be taken before the agency upon  
1 27 conditions determined by the court. The agency may modify its  
1 28 findings and decision in the case by reason of the additional  
1 29 evidence and shall file that evidence and any modifications,  
1 30 new findings, or decisions with the reviewing court and mail  
1 31 copies of the new findings or decisions to all parties.

1 32 Sec. 2. Section 321.236, subsection 1, unnumbered  
1 33 paragraph 2, Code Supplement 2007, is amended to read as  
1 34 follows:

1 35 Parking meter, snow route, and overtime parking violations  
2 1 which are ~~denied~~ contested shall be charged and proceed before  
2 2 a court the same as other traffic violations. Filing fees and  
2 3 court costs shall be assessed as provided in section 602.8106,  
2 4 subsection 1 and section 805.6, subsection 1, paragraph "a"  
2 5 for parking violation cases. ~~Parking violations which are~~  
2 6 ~~admitted.~~

2 7 Sec. 3. Section 321.236, subsection 1, paragraphs a and b,  
2 8 Code Supplement 2007, are amended to read as follows:

2 9 a. ~~May~~ Parking violations which are uncontested shall be  
2 10 charged and collected upon a simple notice of a fine payable  
2 11 to the city clerk, if authorized by ordinance. The fine for  
2 12 each violation charged under a simple notice of a fine shall  
2 13 be established by ordinance. The fine may be increased by  
2 14 five dollars if the parking violation is not paid within  
2 15 thirty days of the date upon which the violation occurred, if

2 16 authorized by ordinance. Violations of section 321L.4,  
2 17 subsection 2, ~~may shall~~ be charged and collected upon a simple  
2 18 notice of a one hundred dollar fine payable to the city clerk,  
~~2 19 if authorized by ordinance. No costs~~ Costs or other charges  
2 20 shall ~~not~~ be assessed. All fines collected by a city pursuant  
2 21 to this paragraph shall be retained by the city and all fines  
2 22 collected by a county pursuant to this paragraph shall be  
2 23 retained by the county, except as provided by an agreement  
2 24 between a city and a county treasurer for the collection of  
2 25 fines pursuant to section 331.553, subsection 8.  
~~2 26 b. Notwithstanding any such ordinance, may be prosecuted~~  
~~2 27 under the provisions of sections 805.7 to 805.13 or as any~~  
~~2 28 other traffic violation.~~  
2 29 Sec. 4. Section 364.22, subsection 4, unnumbered paragraph  
2 30 1, Code 2007, is amended to read as follows:  
2 31 An officer authorized by a city to enforce a city code or  
2 32 regulation may issue a civil citation to a person who commits  
2 33 a municipal infraction. ~~The A copy of the~~ citation may be  
2 34 served by personal service as provided in rule of civil  
2 35 procedure 1.305, by certified mail addressed to the defendant  
3 1 at the defendant's last known mailing address, return receipt  
3 2 requested, or by publication in the manner as provided in rule  
3 3 of civil procedure 1.310 and subject to the conditions of rule  
3 4 of civil procedure 1.311. A copy of the citation shall be  
3 5 retained by the issuing officer, and ~~one copy the original~~  
~~3 6 citation~~ shall be sent to the clerk of the district court.  
3 7 The citation shall serve as notification that a civil offense  
3 8 has been committed and shall contain the following  
3 9 information:  
3 10 Sec. 5. Section 523I.602, subsection 4, Code 2007, is  
3 11 amended to read as follows:  
3 12 4. RECEIPT == CEMETERY RECORD. Every such trustee shall  
3 13 execute and deliver to the donor a receipt showing the amount  
3 14 of money or other property received, and the use to be made of  
3 15 the net proceeds from the same, duly attested by the clerk of  
3 16 the court granting letters of trusteeship, ~~and a copy thereof,~~  
~~3 17 signed by the trustee and so attested, shall be filed with and~~  
~~3 18 recorded by the clerk in a book to be known as the cemetery~~  
~~3 19 record, in which shall be recorded all reports and other~~  
~~3 20 papers, including orders made by the court relative to~~  
~~3 21 cemetery matters and the trustee shall keep a signed and~~  
~~3 22 attested copy of the receipt.~~  
3 23 Sec. 6. Section 602.1215, subsection 1, Code 2007, is  
3 24 amended to read as follows:  
3 25 1. Subject to the provisions of section 602.1209,  
3 26 subsection 3, the ~~district judges of each chief judge of the~~  
3 27 judicial ~~election~~ district shall ~~by majority vote appoint~~  
3 28 ~~appoint~~ persons to serve as clerks of the district court  
3 29 within the judicial ~~election~~ district. The ~~district judges of~~  
~~3 30 a judicial election district chief judge~~ may appoint a person  
3 31 to serve as clerk of the district court for more than one but  
3 32 not more than four contiguous counties in the same judicial  
3 33 district. A person does not qualify for appointment to the  
3 34 office of clerk of the district court unless the person is at  
3 35 the time of application a resident of the state. A clerk of  
4 1 the district court may be removed from office for cause by a  
~~4 2 majority vote of the district judges the chief judge~~ of the  
4 3 judicial ~~election~~ district. ~~Before~~ Prior to removal, the  
4 4 clerk of the district court shall be notified of the cause for  
4 5 removal.  
4 6 Sec. 7. Section 602.8104, subsection 2, paragraph h, Code  
4 7 2007, is amended by striking the paragraph.  
4 8 Sec. 8. Section 602.8104, subsection 2, Code 2007, is  
4 9 amended by adding the following new paragraph:  
4 10 NEW PARAGRAPH. k. A record book of certificates of  
4 11 deposit, not in the clerk's name, which are being held by the  
4 12 clerk on behalf of a conservatorship, trust, or an estate  
4 13 pursuant to a court order as provided in section 636.37.  
4 14 Sec. 9. Section 602.8106, subsection 1, paragraph c, Code  
4 15 Supplement 2007, is amended to read as follows:  
4 16 c. For filing and docketing a complaint or information or  
4 17 uniform citation and complaint for parking violations under  
4 18 sections 321.236, 321.239, 321.358, 321.360, and 321.361,  
4 19 eight dollars, effective January 1, 2004. The court costs in  
4 20 cases of parking meter and overtime parking violations which  
4 21 are ~~denied contested~~, and charged and collected pursuant to  
4 22 section 321.236, subsection 1, or pursuant to a uniform  
4 23 citation and complaint, are eight dollars per information or  
4 24 complaint or per uniform citation and complaint effective  
4 25 January 1, 1991.  
4 26 Sec. 10. Section 631.4, subsection 1, paragraph a, Code

4 27 2007, is amended to read as follows:

4 28 a. If the defendant is a resident of this state, or if the  
4 29 defendant is a nonresident of this state and is subject to the  
4 30 jurisdiction of the court under rule of civil procedure 1.306,  
4 31 the plaintiff may elect service under this paragraph, and upon  
4 32 receipt of the prescribed costs the clerk shall mail to the  
4 33 defendant by certified mail, restricted delivery, return  
4 34 receipt to the clerk requested, a copy of the original notice  
4 35 together with a conforming copy of an answer form. However,  
5 1 if the defendant is a corporation, partnership, or  
5 2 association, the clerk shall mail to the defendant by  
5 3 certified mail, return receipt to the clerk requested, a copy  
5 4 of the original notice with a conforming copy of an answer  
5 5 form. The defendant is required to appear within twenty days  
5 6 following the date service is made.

5 7 Sec. 11. Section 636.37, Code 2007, is amended to read as  
5 8 follows:

5 9 636.37 DUTY OF CLERK.

5 10 1. The clerk of the district court with whom any deposit  
5 11 of funds, moneys, or securities shall be made, as provided by  
5 12 any law or an order of court, shall enter in a book, to be  
5 13 provided and kept for that purpose, the amount of such  
5 14 deposit, the character thereof, the date of its deposit, from  
5 15 whom received, from what source derived, to whom due or to  
5 16 become due, if known.

5 17 2. A separate book shall be maintained for all  
5 18 certificates of deposit not in the name of the clerk of the  
5 19 district court that are being held by the clerk on behalf of a  
5 20 conservatorship, trust, or estate. The book shall list the  
5 21 relevant details of the transaction, including but not limited  
5 22 to the name of the conservator, trustee, or executor, and  
5 23 cross references to the court orders opening and closing the  
5 24 conservatorship, trust, or estate.

5 25 Sec. 12. Section 805.8A, subsection 1, paragraph a, Code  
5 26 2007, is amended to read as follows:

5 27 a. For parking violations under sections 321.236, 321.239,  
5 28 321.358, 321.360, and 321.361, the scheduled fine is five  
5 29 dollars, except if the local authority has established the  
5 30 fine by ordinance ~~pursuant to section 321.236, subsection 1.~~  
5 31 The scheduled fine for a parking violation pursuant to section  
5 32 321.236 increases by five dollars, ~~as if~~ authorized by  
5 33 ordinance ~~pursuant to section 321.236, subsection 1, and if~~  
5 34 the parking violation is not paid within thirty days of the  
5 35 date upon which the violation occurred. For purposes of  
6 1 calculating the unsecured appearance bond required under  
6 2 section 805.6, the scheduled fine shall be five dollars, or if  
6 3 the amount of the fine is greater than five dollars, the  
6 4 unsecured appearance bond shall be the amount of the fine  
6 5 established by the local authority ~~pursuant to section~~  
6 6 ~~321.236, subsection 1.~~ However, violations charged by a city  
6 7 or county upon simple notice of a fine instead of a uniform  
6 8 citation and complaint ~~as permitted required~~ by section  
6 9 321.236, subsection 1, paragraph "a", are not scheduled  
6 10 violations, and this section shall not apply to any offense  
6 11 charged in that manner. For a parking violation under section  
6 12 321.362 or 461A.38, the scheduled fine is ten dollars.

6 13 EXPLANATION

6 14 This bill relates to the judicial branch including judicial  
6 15 review of state agency decisions, contested and uncontested  
6 16 parking violations, filing civil citations of municipal  
6 17 infractions, appointments of clerks of the district court,  
6 18 records kept by the clerks, and service of original notice in  
6 19 a small claims action.

6 20 The bill provides that in proceedings for judicial review  
6 21 of state agency action which does not involve a contested  
6 22 case, the evidence shall include a certified copy of the  
6 23 decision of the agency, a transcript of any reported agency  
6 24 hearing that is relevant to the agency action, relevant  
6 25 documents or evidence considered by the agency in taking the  
6 26 action under review, or any other relevant documents submitted  
6 27 by a party.

6 28 The bill removes the clerk of the district court from  
6 29 collecting uncontested parking violation fines of a city or  
6 30 county.

6 31 Under the bill, when a violation of a municipal infraction  
6 32 occurs and a civil penalty is assessed, a copy of the citation  
6 33 shall be served on the defendant, and the original citation  
6 34 shall be sent to the clerk of the district court. Current law  
6 35 provides that a copy of the citation be sent to the clerk of  
7 1 the district court.

7 2 The bill strikes the requirement that the clerk of the

7 3 district court keep a cemetery record book related to Code  
7 4 section 523I.602.

7 5 The bill changes the method by which the clerk of the  
7 6 district court is appointed. The bill permits the chief judge  
7 7 of each judicial district to appoint the clerk of the district  
7 8 court and remove the clerk for cause. The clerk under current  
7 9 law is appointed by a majority vote of all the district judges  
7 10 in the judicial election district, and removed by majority  
7 11 vote.

7 12 The bill provides that the clerk of the district court  
7 13 shall keep a record book of certificates of deposit that have  
7 14 not been issued in the name of the clerk but are being held by  
7 15 the clerk on behalf of a conservatorship, trust, or an estate.  
7 16 The bill also provides that the record book shall list the  
7 17 relevant details of the transaction, including but not limited  
7 18 to the name of the conservator, trustee, or executor, and  
7 19 cross references to the court orders opening and closing the  
7 20 conservatorship, trust, or estate. Current law provides the  
7 21 clerk to provide a detailed accounting of all funds deposited  
7 22 with the clerk pursuant to Code section 636.37.

7 23 The bill provides that if the defendant in a small claims  
7 24 action is a corporation, partnership, or association, the  
7 25 clerk, to obtain service, shall mail to the defendant a copy  
7 26 of the original notice, with a conforming copy of the answer  
7 27 form, by certified mail, return receipt to the clerk  
7 28 requested.

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